

Rethinking Higher Education

Accreditation Reform

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U.S. Department of Education
Office of the Secretary
Office of the Under Secretary
Office of Postsecondary Education





Accreditation Reform

The Higher Education Act of 1965, as amended (HEA), makes clear that, although the U.S. Department of Education (Department) has an important role to play in ensuring that all academically-ready students have the opportunity to attend the colleges of their choice, Congress has prohibited the Department from intervening in the curricular decisions of an institution and attempting to exert control over its faculty, administration, and academic programs. The Department of Education Organization Act affirms that:

No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system...¹

Instead, Congress has assigned the role of overseeing the quality and academic sufficiency of instructional programs to accrediting agencies (accreditors). Accreditors are independent, membership-based organizations that rely on peer review to ensure that member institutions meet certain standards for academic quality and rigor. The aim of accreditation is not to ensure that all institutions accredited by a given agency are identical or that all students who attend those institutions reach for the same goals or achieve the same outcomes. Instead, accreditors ensure that students have access to qualified instructors, an adequate curriculum, and necessary support services to enable them to meet their personal, academic, intellectual, and career goals.

Postsecondary accreditation is a voluntary process in that a college or university need not be accredited in order to provide instruction or confer academic degrees; generally, the permission to operate as a degree-granting institution comes from states. Because colleges and universities may not participate in Federal Student Aid (Title IV) programs unless they are accredited, however, institutions are rarely able to compete for students without this seal of approval. Moreover, even among institutions with endowments sufficient to cover the full cost of education, accreditation is increasingly critical to ensuring that employers and other institutions recognize their degrees and that graduates can continue their education and pursue additional credentials at other institutions.

Accreditors are one important part of the regulatory “triad” that oversees higher education quality. The others are state authorizing agencies, which ensure compliance with state educational requirements and consumer protection laws, and the Department, which oversees adherence to rules of participation in Title IV programs. Unfortunately, over time states and the Department have shifted a number of their responsibilities to accreditors, which has forced accreditors to devote significant resources and attention to oversight of issues outside of their core mission and expertise. Simply put, accreditors are now expected, without Federal funding, to act as agents of the Federal government on a growing list of oversight responsibilities.

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¹ Relationship with States: Curriculum, Administration, and Personnel, 20 U.S.C. § 3403(b).

As a result, accreditors and the institutions they oversee have too often been forced into a state of regulation-induced conformity. It is not simply that the sheer volume of regulatory requirements may limit innovation—though that is certainly a concern—but also that many regulatory and sub-regulatory requirements demand adherence to the orthodoxy of the day.

Accreditors are increasingly asked by policymakers and institutions to give their imprimatur to educational innovations as institutions search for more efficient and effective ways to meet the academic needs of more students. Yet, the Department holds accreditors accountable for ensuring that programs and institutions meet quality standards that are well-accepted among a group of qualified peers, thus too often discouraging innovations out-of-sync with the status quo in higher education. The status quo avoids risk, but innovation cannot exist without it. Change almost always involves some degree of risk.

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The Department and accreditors must provide reasonable assurances to students and parents that they will not waste their investment of time and money by enrolling at an institution that does not deliver on its promises or maintain a level of rigor sufficient to ensure that a credential from that institution provides value. At the same time, students cannot be fooled into complacency by believing that their personal success is the responsibility of anyone

other than themselves. Accreditation ensures that students have a reasonable and sufficient opportunity to learn, but it is not a guarantee for individual student success.

We have begun examining the Department’s accreditation regulations and processes to determine which are critical to assessing the quality of an institution and its programs and to protecting student and taxpayer investments. This process is ongoing, and we are eager to further inform and refine our recommendations through input from key stakeholders and members of the public. Our goal is to question why we recognize accreditors the way we do, why they evaluate institutions the way they do, and what alternatives might generate better results and create new efficiencies or cost savings.

I. Review of Recommendations from Higher Education Stakeholders

How the Department holds accreditors accountable for adhering to our regulations, including through their standards and practices, has a direct impact on how accreditors, in turn, evaluate institutions that they oversee. At the direction of Secretary Betsy DeVos, the Department has closely examined how other stakeholders have viewed our processes and requirements for recognizing accreditors.

We first considered the recommendations made by the National Advisory Council on Institutional Quality and Improvement (NACIQI),² the Council for Higher Education Accreditation,³ the American Council on Education,⁴ and the Senate Task Force on Federal Regulation of Higher Education⁵ (convened by Senator Lamar Alexander [R-TN], Senator Barbara Mikulski [D-MD], Senator Michael Bennet [D-CO], and Senator Richard Burr [R-NC]) to understand the collective thinking on how the Department might improve accreditation. Our analysis revealed some common themes among those recommendations, including (but not limited to) the following:

² Keiser, A. (March 2018). Report to the U.S. Secretary of Education: 2018 Accreditation Policy Recommendations on Regulatory Reform. Retrieved from <https://sites.ed.gov/naciqi/files/2018/02/Regulatory-Reform-Recommendations-FINAL.pdf>.

³ Eaton, J. (April 2017). Position Paper: Regulatory Relief for Accreditation. Retrieved from https://www.chea.org/userfiles/uploads/Letter_and_Position_Paper_Feb_23_2018.pdf.

⁴ Broad, M. (April 30, 2015). Comments On Accreditation White Paper, American Council on Education. Retrieved from <https://www.acenet.edu/news-room/Documents/Comments-Alexander-Accreditation.pdf>.

⁵ Senate Task Force on Federal Regulation of Higher Education (February 28, 2015). Recalibrating Regulation of Colleges and Universities. Retrieved from https://www.help.senate.gov/imo/media/Regulations_Task_Report_2015_FINAL.pdf.

Common Themes from Accreditation Triad Recommendations

- Restore the program integrity triad's system of checks and balances
- Restore focus and clarity to the Department's accreditor recognition process and requirements
- Integrate risk-based review into the recognition process
- Eliminate unnecessary minutia in the accreditor recognition process
- Confine the scope of review of accreditors to the express regulatory requirements
- Simplify the recognition criteria and put a higher priority on activities directly related to the student experience
- Honor the autonomy and independence of accreditors and institutions
- Reform substantive change requirements to enable institutions to respond more quickly to changing programmatic needs
- Adhere to the statutory prohibitions on establishing bright line standards
- Clarify the issues on which the Department seeks NACIQI's policy input

In December 2017, the Secretary convened a diverse group of stakeholders for a Rethinking Higher Education summit to learn about innovations in educational delivery that can reduce cost and better prepare students for the demands of contemporary work and life. Participants highlighted the many exciting opportunities currently under development and the need to leverage these innovations to serve a more diverse group of students, accelerate credential completion, and improve student learning. We also heard from many innovators that accreditation has steep barriers to entry that may serve to protect market-share for established educational providers, even when their results are unimpressive. The Department is concerned that accreditor reluctance to support or approve innovations in higher education may be the result of a tendency to dictate policies and practices to accreditors and second-guess even the most measured and responsible actions that accrediting bodies have taken to support reform.

In performing our review, we have asked the following questions:

- Which areas of the Department's accreditation regulations and guidance are most directly related to educational quality and the student experience? Which are ambiguous, repetitious, or unnecessarily burdensome?
- Does the Accreditation Handbook help accreditors understand the Department's expectations or does it simply "muddy the water" by layering additional requirements that are not included in statute or regulation?



- How do we shore up the triad and clarify the roles and responsibilities of each entity? How do we eliminate duplication of oversight responsibilities among two or more members of the triad to reduce burden and to ensure that the appropriate entity is held accountable when it fails to fulfill its duties?
- How can we embrace and support innovation, but do so without exposing students and taxpayers to unreasonable risk?
- How can we reduce the size of petitions for recognition or for renewals of recognition and still comprehensively review the work of an accreditor and ensure the consistent application of its standards?
- Can the Department provide more support and information to accreditors to help them do their jobs more effectively? If so, what form should that take?
- Has the Department or NACIQI become too prescriptive with regard to student achievement, despite the statutory prohibitions on bright line standards and the ability of accreditors to establish different standards for different institutions? Are there better options that we should explore?

We first posed these questions at the May 2018 meeting of the NACIQI, hoping to generate conversation and receive feedback on our questions and concerns. We similarly presented a summary of our concerns in remarks before the University Professional and Continuing Education Association 2018 Annual Conference, as well as in remarks delivered at the Council for Higher Education Accreditation 2018 Federal Policy Roundtable. These early conversations helped us gauge the relevance of the questions we are asking and to expand those questions to address the concerns articulated by our stakeholders. Through our various outreach activities, as well as through opportunities for public comment and negotiated rulemaking announced by the Department on July 31, 2018, our goal is to question the usefulness, effectiveness, and efficiencies of all elements of the accreditation program and to leverage the wisdom and experience of the community to streamline and reduce the unnecessary costs associated with accreditation while improving its outcomes and restoring public trust in the rigor of the accreditation process and the value of postsecondary education.

II. Proposals for Accreditation Reform

Based on the recommendations of critical stakeholders, as well as our review of the accreditor recognition process, the Department proposes a number of reforms to encourage institutional autonomy and to discourage government overreach that could bog down the accreditation process and suppress innovation. Although some of these reforms can be accomplished administratively, others will require regulatory or statutory changes. The Department seeks the input of all higher education stakeholders to develop more effective and less costly regulatory requirements.

Proposal 1:

Restore “substantial compliance” as the standard for recognition.

CHALLENGE:

In 2010, the Department changed its compliance review to an “all or nothing” standard that finds an accreditor to either be fully compliant or fully non-compliant, even if there is just a minor error or omission that can easily be corrected. For example, an agency that uses policy language that differs slightly from the Department’s regulations, and one that is guilty of negligent disregard for academic rigor, are given the same stamp of failure, when the former can be easily corrected and the later will require considerable

changes in practice and oversight. The Department's failure to correctly distinguish between infractions of different severity has added to the cost and burden of the recognition review process and has likely diminished the focus on the most important work an accreditor does to enforce institutional quality standards. Although the Department must have standards by which it evaluates and recognizes accreditors, and its accreditors need to be held accountable for adhering to those standards, there needs to be enough flexibility to address minor errors or deficiencies in a way that does not increase burden, cost, or uncertainty. But in determining what level of flexibility is appropriate, the Department must adhere to its statutory obligation to consistently hold all accreditors to high standards that put students first. Therefore, the Department seeks advice and recommendations on how the regulations for accreditor recognition should be amended to provide flexibility in circumstances where a recognition review identifies minor administrative errors or gaps rather than major performance failures. The Department believes that the current focus on minutiae may "check boxes," but it does not necessarily demonstrate to the Department that the accreditor is a reliable authority as to the quality of education or training provided by its accredited institutions. It also may result in accreditors diverting attention from critical functions to the trivial. Accordingly, the Department seeks input on how to return to a substantial compliance standard to reduce unnecessary cost and burden without compromising the most important elements of recognition review, including academic quality and integrity.

Proposal 2:

Restore the regulatory triad by more clearly defining the roles and responsibilities of accreditors, states, and the Department in oversight of Title IV participating institutions of higher education.

CHALLENGE:

Even with clear Congressional support for a regulatory triad of distinct and complementary oversight responsibilities, lines have become blurred over time. The Department currently requires accreditors to ensure that institutions meet local fire codes (a state responsibility), evaluate an institution's compliance with credit hour and Clery Act requirements (a Department responsibility), and conduct complicated financial analyses that can be beyond the expertise of the accreditor's staff and most of its volunteers. Accreditors are too often pushed to perform duties well beyond their statutory and historic roles, as well as their typical subject matter expertise. In addition, the blurring of responsibilities has allowed stakeholders to blame accreditors when any lapse in oversight occurs, even if the lapse is the fault of agencies other than accreditors. The recent expansion of sub-regulatory guidance and the Department's role in determining which accreditors may participate in the triad has given the Department a disproportionate influence within the triad when all three legs are supposed to provide independent evaluation and judgment. The Department seeks recommendations for how to implement an accreditation recognition system that respects agency autonomy and the role of each member of the regulatory triad.

Proposal 3:

Increase academic and career mobility for students by eliminating artificial boundaries between institutions due to the credential levels an institution offers or the agency that accredits the institution or its program.

CHALLENGE:

For far too long, the accreditation system (though not necessarily accreditors) has created barriers that make it difficult for students to enjoy full educational and career mobility. A growing reluctance on the part of regionally accredited institutions to accept transfer credits from nationally accredited institutions or to enroll graduates of nationally accredited institutions in higher level credential programs has made it difficult for many students to engage in lifelong learning or to grow and evolve throughout their career. It also contributes to the rising cost of college and the expanding time to degree completion. Meanwhile, the Department holds national and regional accreditors to the same set of standards and otherwise recognizes them as equals. The Department also wants to ensure that accreditors maintain adequate independence from professional associations and licensing bodies, so as to avoid any risk of creating credentialing monopolies or contributing to troubling credential inflation. In some cases, genuine differences among institutional learning objectives or pedagogy may limit the transferability of credits; however, it should never be the case that institutional elitism and historical hierarchies alone make it unnecessarily difficult for transfer students, mid-career professionals, and veterans to obtain a postsecondary credential. The Department seeks recommendations on how to honor institutional autonomy, while at the same time prohibiting anticompetitive practices that are harmful and costly to students.

Proposal 4:

Provide greater flexibility for institutions to engage in innovative educational practices and meet local or national workforce needs.

CHALLENGE:

Despite the call for innovation to reduce the cost of postsecondary education, provide a greater number of options, improve student completion rates, and meet local and national workforce needs, many of the Department's recognition criteria penalize and, in some instances, outright discourage innovation. In some cases, accreditors at the cutting edge of innovation — accreditors that have responsibly fulfilled their duties and maintained high standards — are subsequently subjected to excessive scrutiny and unwarranted criticism from the public, policy-makers, and the press simply because innovative solutions do not fit neatly into the existing rules or conform to historic practice. Experimentation takes a degree of risk-tolerance and bold thinking, especially when some experiments fail (as will happen). But overly critical second-guessing — even of successful experiments — has created an environment in which accreditors are highly risk averse, not only to protect their own recognition status, but to ensure that the institutions they accredit have opportunities for continued participation in Title IV programs. Some will claim these practices are designed to protect students, but unlike genuine consumer protections, which are vital, these policies too often limit opportunity. The Department seeks recommendations on ways to protect students, promote innovation, accept a reasonable level of risk, and refrain from after-the-fact second-guessing that creates unnecessary and damaging instability for students, institutions, and innovators. In particular, the Department seeks recommendations on how to create on-ramps and off-ramps to accreditation that replace an all-or-nothing system with one that creates opportunities for new, better programs without jeopardizing the future of traditional programs that continue to serve students well.

Proposal 5:

Within the confines of the law, protect institutional autonomy, honor individual campus missions, and afford schools the opportunity to build campus communities based on shared values.

CHALLENGE:

The American higher education system is rich with diversity, including institutions of varying size, selectivity, mission, and student population. It is important that the accreditation system celebrates and supports this diversity, rather than try to squelch it by encouraging institutions to conform to arbitrary one-size-fits-all standards. The HEA requires accreditors to focus on educational quality, but also provides institutions the prerogative to define their mission and build a campus community in line with those values. A public, state-supported university, for example, is required to provide a campus environment that may be very different from that of a private religious institution, and each must be permitted to define their role and mission with autonomy. The Department encourages this diversity, believing that students are best served when they have the opportunity to choose the college or university that is right for them. Accreditation standards must recognize and respect the religious liberty of private institutions and their students and must not require religious institutions to conform to standards that violate the principles of their faith.

Similarly, within the confines of an institution's mission, accreditors must be careful to ensure that institutions uphold academic freedom and protect campus debate and inquiry. In recent years, students and faculty have suffered from curbs on academic freedom and campus debate. Speech codes and free-speech zones often outright prohibit diverse views from being expressed in many areas on campus. Institutions that market themselves as centers of academic freedom and vigorous intellectual debate must fulfill this promise, as doing otherwise is a misrepresentation to students. The Department seeks comments on how to encourage open and free debate that allows for the expression of all points of view, particularly at public institutions already subject to Constitutional safeguards governing free speech.

Proposal 6:

Reward institutional value added, not student selectivity.

CHALLENGE:

Current accountability metrics, such as graduation and student loan cohort default rates, may be a reliable measure of institutional selectivity and student socioeconomic status, but they are not necessarily valid proxies for academic quality. Too many education researchers have over-simplified outcomes assessments, choosing to ignore the many variables proven to influence student outcomes and asserting causality between institutional quality and student outcomes where mere correlation exists. Student outcomes are of supreme importance in evaluating the contribution an institution makes to its students and community, but bright line standards do not honor diversity among institutional missions or respect the belief that all students deserve an opportunity to pursue postsecondary education.

It is not surprising that a highly selective institution graduates the majority of the students it enrolls, but without proper data, it is impossible to know if this high success rate should be attributed to the work of the admissions staff or the excellence of the faculty. On the other hand, it is similarly unsurprising that an open-enrollment institution that serves large numbers of working parents will find that many students will not complete their education in the typical "150 percent" of the published program length timeframe due to financial challenges or family obligations far beyond the college's control.

Therefore, the Department must empower accreditors to evaluate institutional outcomes, taking into account the institution's student body and mission, which may include providing opportunities for adults who enroll at multiple times throughout their lifetime to improve or gain skills, but potentially without the goal of completing a degree. The Department seeks recommendations on innovative ideas for enhancing institutional accountability and the assessment of student outcomes, without defaulting to the use of unsophisticated proxies that do not accurately measure or reflect quality and fail to take into account the mission of an institution and the challenges faced by its students.

Proposal 7:

Modify “substantive change” requirements to provide greater flexibility to institutions to innovate and respond to the needs of students and employers, while maintaining strict accreditor oversight in instances of more complicated or higher risk changes in institutional mission, program mix, or level of credential offered.

CHALLENGE:

Under the Department’s current regulations, accreditors must define “substantive changes” to include many items that have little to do with academic quality or that duplicate reviews carried out by the Department or the States. These reviews are costly, with many institutions claiming that, due to the added costs of legal support and consulting services, they can run as high as \$1 million for a single institution.⁶ These requirements also delay the implementation of new programs or program modifications, thereby preventing institutions from meeting local or national workforce needs in a timely manner. Instead of requiring accreditor approval for many minor changes, institutions should be granted greater autonomy and accreditors given the freedom to focus on only the most significant changes deserving of proper oversight.

At the same time, there has been little attention paid to the troubling trend of credential inflation in certain fields, which often is the result of agreements between programmatic or specialized accreditors and professional associations or licensing boards. There is a natural inclination for groups of occupational professionals or practitioners to implement standards and requirements that reduce competition in the field and increase prestige, but accreditors should not enable unnecessary credential inflation simply because licensing boards or professional organizations demand it. Instead, programmatic accreditors must find new ways to engage employers to determine if better results can be achieved through short-term credentialing or alternative pathways that are more affordable and accessible and avoid costly credential inflation.

If a curriculum or credential is no longer meeting the needs of an occupation, careful consideration could be given to modifying the program content within the current credential requirement before elevating credential requirements and simply adding additional classes that require longer and more costly periods of study. For this reason, when elevating the credential level associated with occupational licensing, it is in the best interest of students if there is rigorous oversight by programmatic accreditors with the active engagement of employers and workers. The Department seeks the recommendations of employers, institutions, accreditors, and students in identifying best practices that balance the need for institutions to be more responsive to student and employer needs while retaining the necessary controls over high risk institutional or programmatic changes.

⁶ Flounlacker, M. (October 18, 2011). NACIQI - Reauthorization Comments. Retrieved From <https://www2.ed.gov/about/bdscomm/list/naciqi-dir/reauthorization/flounlacker-hea.pdf>

Proposal 8:

Streamline and clarify the Department's accreditor recognition process.

CHALLENGE:

The Department's accreditor recognition process has become increasingly complex, with recommended practices too often mutating into program requirements and with regulatory requirements growing into pages and pages of sub-regulatory guidance. Moreover, as recently pointed out in a report issued by the Department's Office of Inspector General, the recognition process has introduced a number of inconsistencies and double standards leading to differing treatment of different accreditors.⁷ The Department must avoid the use of unwritten or unpublished expectations regarding compliance. The Department's recognition process must not allow it to expand its role into controlling or influencing the academic curricula and programs of colleges and universities.

Accreditors deserve to understand what the Department requires of them based on published regulations, and the Department must respect legislative restrictions on its role and avoid offloading the requirements of its own oversight program onto accreditors. Accreditors should also have confidence that changes in Department policy will not be retroactively and punitively applied.

The Department will work to clarify its expectations and accept that there may be exceptional circumstances that require an accreditor to take unusual action. The Department seeks advice from all stakeholders on how to reduce the complexity of the recognition process, provide technical assistance to help accreditors comply, and create a review process that builds confidence and encourages innovation.

Proposal 9:

Encourage and enable accreditors to support innovative practices, grant limited accreditation to experimental pedagogies, provide support to accreditors when they take adverse actions, and allow sanctions that do not mandate “all or nothing” access to Title IV.

CHALLENGE:

Current recognition requirements prevent an accreditor from providing sufficient latitude to enable institutions to experiment with new programs or pedagogies without risking the accreditation of an entire program or institution. Although sufficient safeguards must be put in place to monitor the progress and effectiveness of innovative practices and to take action when they are generating poor results, these safeguards cannot be so strict that institutions are fearful of implementing innovations that may result in improved student outcomes. Accreditors may benefit from a wider range of available sanctions in order to improve institutional quality without the use of “all-or-nothing” blunt instruments that have severe and often untenable consequences on students and communities. The Department must also consider the development of accreditation “on ramps” and “off ramps” that allow new programs or innovations to be tested within the Title IV program and that allow students to be made whole in the event that accreditation is removed from a program or institution.

⁷ Gordon, B. (June 27, 2018). U.S. Department of Education's Recognition and Oversight of Accrediting Agencies. Retrieved from <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a09r0003.pdf>

Accreditors must consistently apply criteria, and they ought to be supported when they do so. When sanctions are justified, they should be applied fairly and without loopholes. When an accreditor takes a fair and justified action, it should do so knowing it will have the backing of the Department, without fear of unreasonable interference or action that dilutes the accreditor's authority. The Department seeks recommendations from stakeholders on how to implement a fair and consistent recognition process that also affords adequate flexibilities to ensure that the best interests of students are always served. Institutions should not be favored simply because they are more selective; however, we are interested in understanding how differentiated accreditation or recognition might reduce cost and enable institutions and accreditors to focus on the opportunities and challenges that different kinds of institutions face.

The Department looks forward, through our upcoming negotiated rulemaking effort, to work with stakeholders to refine and streamline the accreditor recognition process, to improve its effectiveness in monitoring academic rigor and integrity, and to understand the role of accreditation in enhancing the student experience and protecting student and taxpayer investments.